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EXAMINER

DUNLAP, JONATHAN M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,921	Applicant(s) CROSS ET AL.	
	Examiner Jonathan Dunlap	Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-5,7,9,11,14-18 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,9,11,14-18 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on April 1, 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

FINAL ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 11, 14, 16-18 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Koike et al. (US Patent 5305650).

Considering claim 1, Koike discloses a workstation for providing samples comprising:

- at least a platform **base**, which has at least one first module **11** with at least one reservoir for a chemical educt and at least one second module **10** with at least one target container;
- a metering system **12** for the metering of the sample;
- a portal system **13**, which is arranged above the platform and which maneuvers the metering system in all three directions in space;
- a control device **100** for controlling the movements of the metering system **12**; and
- a measuring system **302** for the samples, characterized in that wherein the metering system has a gripper device for the uptake of a metering tool, which is supported within at least one third module **12** on the platform, and wherein the measuring system **302** is on the same platform as the

metering system and the measuring system **302** is a gravimetric load cell, with the workstation being a metering system for both solids and liquids (All found in Figures 1, 4-6 and 18; Column 2, lines 1-68; Column 3, lines 1-4; Column 5, lines 29-68, Column 6, lines 1-24; Column 9, lines 3-51; Column 13, lines 50-68; Column 14, lines 1-4, The liquid contains solids, which are filtered after being metered, The term "integral" does not require a unitary one-piece structure. In re Kohno, 391 F.2d 959, 157 USPQ 275 (CCPA 1968); In re Larson, 340 F.2d 965, 144 USPQ 347 (CCPA 1965))

Considering claim 11, Koike discloses that the measuring system **302** is arranged as a module on the platform (**Figure 18**).

Considering claim 14, Koike discloses that the metering system has a pump **303** and a connection for a liquid **309** (**Figure 19; Column 13, lines 23-46**).

Considering claim 16, Koike discloses that the platform further has at least one module with a heating device **64** and/or at least one module with a mixing device **58-61** (**Figure 3; Column 8, lines 9-52**).

Considering claim 17, Koike discloses that the metering system has at least one sensor for the detection of the position of the modules (**Column 5, lines 4-18; Column 6, lines 1-24, lines 53-68; Column 9, lines 12-51**).

Considering claim 18, Koike discloses that the modules have at least one marking, which is detectable by the at least one sensor (**Column 5, lines 4-18; Column 6, lines 1-24, lines 53-68; Column 9, lines 12-51**).

Considering claim 33, Koike discloses that the measuring system is a scale (**Column 13, lines 18-21**)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koike et al. (US Patent 5305650) in view of Yakou (US Patent 5150937).

Considering claim 2, Koike discloses that the gripper device has two support means that are faced diametrically to each another and which are movable in a concentric manner towards each other (**Figures 6-7**).

The invention by Koike fails to disclose that there are four supports.

However, Yakou teaches the use of a four supports (**Figure 13; Column 13, lines 62-68; Column 14, lines 1-29**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize four supports in the invention by Koike as taught by Yakou. The motivation for doing so is found in the teachings of Yakou, "four finger members are set in a cross-shape...a work can be clamped by their four surfaces...as a result, the work can be clamped while being aligned," which shows that four supports are better at maintaining a proper grip than two supports (**Column 15, lines 22-47**).

Considering claim 3, Koike fails to disclose that two support means are supported in a pair of linear orientated slide bars, respectively, wherein the pairs of slide bars are arranged perpendicularly towards each other.

However, Yakou teaches the use of two support means are supported in a pair of linear orientated slide bars, respectively, wherein the pairs of slide bars are arranged perpendicularly towards each other (**Figure 13**)

Considering claim 4, Koike discloses that the support means have a geometry, which allows a form-complementary clamping with the geometry of the metering tool (**Figures 6-7**).

Yakou also teaches the use of four supports with a complementary geometry (**Figure 13; Column 14, lines 60-68; Column 15, lines 1-47**).

Considering claim 5, Koike discloses that the support means are exchangeable (**Column 6, lines 25-46**).

Considering claim 9, Koike fails to disclose that the support means are activated pneumatically for the clamping.

5. However, Yakou teaches the use of pneumatics for clamping the support means (**Column 8, lines 55-59**).

The invention by Koike teaches a method of moving the support means. The invention by Yakou teaches an alternate method of moving the support means. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to utilize any known method of moving the support means that would have been able to obtain predictable results. Therefore, the use of the pneumatics, as taught by Yakou, would have been recognized as an appropriate means for moving the support means and would have reached predictable results.

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6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koike et al. (US Patent 5305650) in view of Yakou (US Patent 5150937) as applied to claim 5 above, and further in view of either Schaefer et al. (US Patent 3843187) or Hennekes et al. (US Patent 4500065) as applied to claim 6 above, and furthermore in view of Jokes et al. (US Patent 6455002).

Considering claim 7, the invention by Koike, as modified by Yakou and Schaefer or Hennekes, fails to disclose that support means has an adhesion layer for increased adhesion.

7. However, Jokes teaches the use of an additional layer of material placed on the support means for the purpose of increased adhesion (**Column 3, lines 42-57**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize an adhesion layer on the support means as taught by Jokes in the invention by Koike, as modified by Yakou and Schaefer or Hennekes. The motivation for doing so is found in the teachings of Jokes, "[t]he gripper fingers have, on their end regions, grooved contact surfaces which face on another and are covered with a nonslip, resilient coating...for improved adhesion" (**Column 3, lines 51-55**)

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koike et al. (US Patent 5305650) in view of Guhl (GB 2 284 901 A).

Considering claim 15, Koike fails to disclose that the metering system has a vibration device in order to excite the metering tool into a defined vibration.

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9. However, Gul teaches the use of a vibration device to excite the metering tool **(Page 3, 6th Paragraph)**.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a vibration device in order to excite the metering tool as taught by in the invention by Koike, as modified by Yakou. The motivation for doing so is found in the teachings of , “[b]y shaking the sample substance during the filling procedure a clogging of the sample substance due to static friction is largely prevented, clumps are broken-up, the surface is levelled and a practically continuous pouring occurs at a slow filling rate” **(Page 3, 6th Paragraph)**.

Response to Arguments

Applicant's arguments filed September 18, 2008 have been fully considered but they are not persuasive.

Applicant contends that the invention by Koike fails to disclose metering of liquids and solids. However, the Examiner points out that the “liquid” of Koike is mixture of solids and liquids. The mixture is metered and then filtered. Therefore, both solids and liquids are metered.

Applicant further relies on the invention of Guhl in the remainder of their arguments. The invention by Guhl does not form, nor form in part, the rejection of claim 1. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Dunlap whose telephone number is (571)270-1335. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harshad Patel can be reached on (571) 272-2187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Harshad Patel/
Primary Examiner, Art Unit 2855

/J. D./
Examiner, Art Unit 2855
November 4, 2008